UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

PROMOTE INNOVATION LLC	)	
	)	Case No. 2:10-cv-135
Plaintiff	)	
	)	COMPLAINT FOR FALSE
v.	)	PATENT MARKING
	)	
LITTLE KIDS, INC.	)	JURY TRIAL DEMANDED
	)	
Defendant.	)	

Plaintiff PROMOTE INNOVATION LLC alleges as follows:

NATURE OF THE CASE

1. This is an action for false patent marking under section 292 of the Patent Act (35 U.S.C. § 292).

PARTIES

2. Plaintiff PROMOTE INNOVATION LLC is a Texas limited liability company with a principal place of business in Houston, Texas.

3. Defendant LITTLE KIDS, INC. is a Rhode Island corporation with a principal place of business in Massachusetts.

JURISDICTION AND VENUE

4. The Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and 1338(a).

5. The Court has personal jurisdiction over defendant. Defendant conducts business within the state of Texas. Defendant offers for sale, sells, marks, and/or advertises the products that are the subject of this complaint in the United States, the state of Texas, and the Eastern District of Texas.

6. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c), and 1395(a).

FACTS

7. Defendant has marked and continues to mark its bubble products (including at least its Big Bubble Bucket products) with U.S. Patent No. 5,105,975.

8. U.S. Patent No. 5,105,975 does not cover the Defendant's bubble products.

9. U.S. Patent No. 5,105,975 relates to a non-spill container having a straw (for example a sippy cup).

10. All of the claims of U.S. Patent No. 5,105,975 require a straw.

11. Defendant's bubble products do not include a straw.

12. In approximately 2002, the only patent marked on Defendant's bubble products was U.S. Patent No. 5,105,975.

13. Sometime later, Defendant added reissue patent nos. 36,131 and 39,443 to its bubble products, but continued mark its bubble products with U.S. Patent No. 5,105,975.

14. Defendant knew that no claim of U.S. Patent No. 5,105,975 covered its bubble products.

CLAIM

15. For the reasons stated in paragraphs 7 to 14 above, defendant has violated section 292 of the Patent Act by falsely marking its products with an intent to deceive the public.

PRAYER FOR RELIEF

Plaintiff thus requests that the Court, pursuant to 35 U.S.C. § 292 to do the following:

A. Enter judgment against defendant and in favor of plaintiff for the violations alleged in this complaint;

B. Order defendant to pay $500 per false marking offense, or an alternative amount a determined by the Court, one-half of which shall be paid to the United States;

C. Grant plaintiff such other and further relief as the Court may deem just and equitable.

JURY DEMAND

Plaintiff demands a jury trial on all issues so triable.

Dated: April 19, 2010

Respectfully submitted,

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